

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

VIBROMAX AMERICA, INC.,	}	
	}	
Plaintiff,	}	
	}	CIVIL ACTION NO.
v.	}	
	}	01-AR-861-S
KEY MACHINERY COMPANY, INC.,	}	
	}	
Defendant.	}	


FILED
01 DEC 21 AM 11:05
U.S. DISTRICT COURT
N.D. OF ALABAMA

JW
ENTERED
DEC 21 2001

MEMORANDUM OPINION

The court has for consideration the motion for summary judgment filed by plaintiff, Vibromax America, Inc., on November 2, 2001. Defendant, Key Machinery Company, Inc., was given until November 16, 2001, to respond to plaintiff's said Rule 56 motion. Defendant has filed nothing. This leaves uncontradicted the pertinent facts set forth in the affidavits of Ko Kryger and of David Anderson, both attached to plaintiff's Rule 56 motion and supporting fully the material averments of the complaint. A non-movant has an obligation to present evidentiary material to create a dispute of material fact, that is, unless the non-movant intends to confess a Rule 56 motion. In this instance, defendant has, by its silence, conceded the truth of plaintiff's assertions. For this reason, plaintiff's Rule 56 motion is due to be granted. Accordingly, judgment will be entered by separate order in favor of plaintiff and against defendant.

DONE this 21st day of December, 2001.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE

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